S.B. CIVIL MISC. APPEAL NO.677/2006
[Ismail and others Vs. Narbada Prasad and others]

DATED :12.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. S.Saruparia for the appellants.

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Having heard learned counsel for the appellants and having perused the impugned award dated 24.03.2005 made by the Motor Accident Claims Tribunal [Additional District Judge No. 2, Udaipur], Camp Salumber in Claim Case No. 561/2002, this court is satisfied that this appeal by the claimants, seeking enhancement over the amount of Rs. 1,92,000/- awarded by the Tribunal as compensation on account of accidental death of Mst. Rehana aged 37 years, wife of the appellant No.1 and mother of the appellants No. 2 to 4, remains absolutely bereft of substance and deserves to be dismissed without being admitted.

For the accidental death of Mst. Rehana, while considering quantification of compensation, the Tribunal observed that the deceased was 37 years of age and there was no proof of her earnings. Therefore, the Tribunal, with reference to Second Schedule to the Motor Vehicles Act, took her notional income at Rs. 15,000/- per annum; and providing for personal expenditure of the deceased, took the estimated

loss of dependency at Rs, 10,000/- per annum and looking to the age of the claimants and the deceased the Tribunal applied a multiplier of 17 and thereby calculated pecuniary loss at Rs.1,70,000/-. The Tribunal also awarded Rs.2,000/- as funeral expenses and Rs. 5,000/- as loss of consortium to the claimant No.1 and Rs 5,000/- as loss of love and affection to each of the children. The Tribunal has, therefore, made an award in the sum of Rs. 1,92,000/- in favour of the claimants and has further allowed them interest @ 6 per annum from the date of filing of the claim application.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that the Tribunal has awarded just compensation and the award does not call for upward revision. The deceased being an unearning person, notional income has rightly been taken at Rs. 15,000/- per annum and adopting of the multiplicand at Rs, 10,000/- per annum cannot be said to be wholly unjustified. Then, choice of multiplier of 17 cannot be said to be inadequate. The Tribunal has further awarded reasonable amount towards non-pecuniary loss. The Tribunal has of course awarded interest only at the rate of 6% per annum but in view of the reasonable amount of compensation awarded, in the facts of the case, such interest rate cannot be said to be grossly inadequate so as to call for interference in appeal.

Having regard to the overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award, even if appearing to be wee bit on lower side, cannot be said to be too low so as to warrant interference in appeal.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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